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DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-870]

Chlorinated Isocyanurates from Japan: Initiation of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Jerry Huang at (202) 482-1394 or (202) 482-4047, respectively, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On August 29, 2013, the Department of Commerce (the “Department”) received an antidumping duty (“AD”) petition concerning imports of chlorinated isocyanurates (“chlorinated isos”) from Japan, filed in proper form by Clearon Corp. and Occidental Chemical Corporation (“Petitioners”).¹ Petitioners are domestic producers of chlorinated isos. On September 4, 2013, Petitioners provided a supplement to the foreign market research report provided in the Petition.² The Department requested additional information and clarification of certain areas of the Petition on September 4, 2013 and September 5, 2013.³ Petitioners filed their response to these requests

¹ See Petition for the Imposition of Antidumping Duties on Chlorinated Isocyanurates from Japan, dated August 29, 2013 (“Petition”).

² See First Supplement to the AD Petition, dated September 4, 2013 (“First Supplement”).

³ See Department’s General Supplemental Questionnaire issued on September 4, 2013 and Department’s AD/CVD Supplemental Questionnaire issued on September 5, 2013.

on September 9, 2013.⁴ Petitioners also submitted additional information regarding the foreign market research report on September 9, 2013.⁵ On September 10, 2013, Department officials held a telephone conference call with the source of the home market pricing information to confirm the information provided.⁶ Additionally, on September 10, 2013, Department officials held a telephone conference call with Petitioners regarding the Supplement to the AD/CVD Petitions.⁷ On September 10, 2013, Petitioners resubmitted Exhibit AD-26 of the Petition.⁸

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the “Act”), Petitioners allege that imports of chlorinated isos from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioners supporting their allegations.

The Department finds that Petitioners filed this Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and have demonstrated sufficient industry support with respect to the initiation of the AD investigation that they are requesting. *See* the “Determination of Industry Support for the Petition” section below.

Period of Investigation

Because the Petition was filed on August 29, 2013, the period of investigation (“POI”) is July 1, 2012, through June 30, 2013.⁹

⁴ *See* Supplement to the AD/CVD Petitions, dated September 9, 2013 (“Supplement to the AD/CVD Petitions”).

⁵ *See* Second Supplement to the AD Petition, dated September 9, 2013 (“Second Supplement”).

⁶ *See* Memorandum to the File from Julia Hancock, dated September 11, 2013.

⁷ *See* Memorandum to the File from Jerry Huang, dated September 11, 2013.

⁸ *See* Amended Supplement to the AD Petition, dated September 10, 2013 (“Amended Supplement”).

⁹ *See* 19 CFR 351.204(b)(1).

Scope of the Investigation

The product covered by this investigation is chlorinated isos from Japan. For a full description of the scope of the investigation, *see* the “Scope of the Investigation,” in Appendix I of this notice.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by October 8, 2013, 5:00 PM Eastern Standard Time, 20 calendar days from the signature date of this notice. All comments and submissions to the Department must be filed electronically using Import Administration’s Antidumping Countervailing Duty Centralized Electronic Service System (“IA ACCESS”).¹⁰ An electronically filed document must be received successfully in its entirety by the Department’s electronic records system, IA ACCESS, by the time and date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Import Administration’s APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.

¹⁰ *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) for details of the Department’s electronic filing requirements, which went into effect on August 5, 2011. Information on using IAACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination. All comments must be filed on the record of the Japan AD investigation, as well as the concurrent PRC countervailing duty (“CVD”) investigation.

Comments on Product Characteristics for Antidumping Duty Questionnaire

The Department requests comments from interested parties regarding the appropriate physical characteristics of chlorinated isos to be reported in response to the Department’s AD questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to develop appropriate product-comparison criteria and to allow respondent to report the relevant costs of production, if necessary.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as 1) general product characteristics and 2) the product-comparison criteria. We find that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe chlorinated isos, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, we must receive comments filed in accordance with the Department’s

electronic filing requirements, available at 19 CFR 351.303, by October 8, 2013. Rebuttal comments must be received by October 14, 2013.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,¹¹ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the

¹¹ See section 771(10) of the Act

Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹²

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that chlorinated isos, as defined in the scope of the investigation, constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product.¹³

In determining whether Petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. To establish industry support, Petitioners provided their production of the domestic like product in 2012, and compared this to the estimated total production of the domestic like product for the entire domestic industry.¹⁴ Petitioners estimated total 2012 production of the domestic like product

¹² See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), aff'd 865 F.2d 240 (Fed. Cir. 1989)).

¹³ See Antidumping Duty Investigation Initiation Checklist: Chlorinated Isocyanurates from Japan ("Initiation Checklist"), at Attachment II, Analysis of Industry Support for the Petitions Covering Chlorinated Isocyanurates from Japan and the People's Republic of China ("Attachment II"). This checklist is dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit ("CRU"), Room 7046 of the main Department of Commerce building.

¹⁴ See Volume I of the Petition, at 3-4 and Volume II of the Petition, at Exhibits GEN-9 and GEN-12.

using their own production data and knowledge of the industry.¹⁵ We have relied upon data Petitioners provided for purposes of measuring industry support.¹⁶

Based on information provided in the Petition, supplemental submissions, and other information readily available to the Department, we determine that Petitioners have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.¹⁷ Based on information provided in the Petition, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.¹⁸ Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.¹⁹

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the AD investigation that they are requesting the Department initiate.²⁰

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject

¹⁵ *Id.*

¹⁶ *See* Initiation Checklist, at Attachment II.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

merchandise sold at less than normal value (“NV”). In addition, Petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²¹

Petitioners contend that the industry’s injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; decline in production, shipments, and capacity utilization; reduced employment-related variables; and decline in financial performance.²² We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.²³

Allegation of Sales at Less Than Fair Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate this investigation of imports of chlorinated isos from Japan. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the Initiation Checklist.

Export Price

Petitioners calculated export price (“EP”) using competitive sales information obtained in the market through customer negotiations, which are supported by affidavits.²⁴

Petitioners made adjustments for cost, insurance, and freight (“CIF”) charges and import duties reported by the U.S. Census Bureau (“Census”) to calculate the ex-factory price. The CIF

²¹ See Volume I of the Petition, at 112-113 and Volume III of the Petition, at Exhibit AD-2.

²² See Volume I of the Petition, at 96-132, Volume II of the Petition, at Exhibits GEN-2 and GEN-9 through GEN-17, and Volume III of the Petition, at Exhibit AD-2.

²³ See Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Chlorinated Isocyanurates from Japan and the People’s Republic of China.

²⁴ See Volume II of the Petition, at Exhibit GEN-12, Volume III of the Petition, at Exhibit AD-3, and Supplement to the AD/CVD Petitions, at Exhibits AD-18 – AD-20.

and import duty charges were estimated to equal the difference between the landed cost value and customs value reported in Census statistics.²⁵

Petitioners also submitted import statistics to corroborate the transaction prices reported in the Petition. Petitioners based average unit value (“AUV”) on import statistics compiled by Census for U.S. imports from Japan during the POI under subheading 2933.69.6015. Petitioners stated that because the AUV represents the free-on-board origin value of the imported merchandise, no adjustments were made to this value for purposes of comparing AUV data with ex-factory prices based on competitive sales data.²⁶

Normal Value

Pursuant to section 773(a)(1)(B)(i) of the Act, Petitioners based NV on prices in Japan for sales of chlorinated isos in various forms in 2013, which were obtained by an independent market research organization.²⁷ As these prices were offered in Japanese yen, Petitioners converted the prices to U.S. dollars so that U.S. price and NV were compared on the same basis.²⁸

Fair Value Comparisons

Based on the data provided by Petitioners, there is reason to believe that imports of chlorinated isos from Japan are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NVs, in accordance with section 773(a)(1) of the Act,

²⁵ See Volume I of the Petition, at 21, and Volume III of the Petition, at Exhibit AD-2.

²⁶ See Volume I of the Petition, at 19, and Volume III of the Petition, at Exhibit AD-2.

²⁷ See Volume III of the Petition, at Exhibit AD-4, First Supplement, Second Supplement, and Memorandum to the File from Julia Hancock and Jerry Huang, International Trade Compliance Analysts, AD/CVD Operations Office 9, through Scot T. Fullerton, Program Manager, AD/CVD Operations Office 9, entitled “Telephone Call to Market Research Firm,” dated September 11, 2013 (“Market Research Memo”).

²⁸ See Supplement to the AD/CVD Petitions, at Exhibit AD-26. Petitioners also provided constructed value data and calculated margins based on a comparison between U.S. export prices and constructed value. See Volume I of the Petition, at 23-29, and Volume III of the Petition at Exhibits AD-5 – AD-16, Supplement to the AD/CVD Petitions at 6-13 and Exhibits AD-21 – AD-26, and Amended Supplement. Because Petitioners provided appropriate home market prices, we have relied on these prices as the basis for normal value, pursuant to section 773(a)(1) of the Act, for purposes of initiation.

the estimated dumping margins for chlorinated isos from Japan range from 129.4 percent to 218.1 percent.²⁹

Initiation of Antidumping Investigation

Based upon the examination of the Petition on chlorinated isos from Japan, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating the AD investigation to determine whether imports of chlorinated isos from Japan are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

The Petition names eleven companies as producers of chlorinated isos from Japan.³⁰ Following standard practice in AD investigations involving market economy countries, in the event the Department determines that the number of known exporters or producers for this investigation is large, the Department may select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports of chlorinated isos from Japan under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500 of the Harmonized Tariff Schedule of the United States. We intend to release the CBP data under Administrative Protective Order (“APO”) to all parties with access to information protected by APO within five days of publication of this *Federal Register* notice and make our decision regarding respondent selection within 20 days of publication of this notice. The Department

²⁹ See Amended Supplement, at Exhibit AD-26.

³⁰ See Volume II of the Petition, at Exhibit AD-1.

invites comments regarding the CBP data and respondent selection within seven days of publication of this *Federal Register* notice.³¹

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), the Government of Japan was provided access to a copy of the public version of the Petition via IA ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine no later than October 15, 2013, whether there is a reasonable indication that imports of chlorinated isos from Japan are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013), which modified two regulations related to AD and CVD proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to

³¹ See *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea and Mexico: Initiation of Antidumping Duty Investigations*, 76 FR 23281, 23285 (April 26, 2011).

questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to this investigation. Please review the final rule, available at <http://ia.ita.doc.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information in this investigation.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³² Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.³³ The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

September 18, 2013_
Date

³² See section 782(b) of the Act.

³³ See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (“*Final Rule*”); see also the frequently asked questions regarding the *Final Rule*, available http://ia.ita.doc.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Appendix I

Scope of the Investigation

The products covered by this investigation are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid ("TCCA") ($\text{Cl}_3(\text{NCO})_3$), (2) sodium dichloroisocyanurate (dihydrate) ($\text{NaCl}_2(\text{NCO})_3 \cdot 2\text{H}_2\text{O}$), and (3) sodium dichloroisocyanurate (anhydrous) ($\text{NaCl}_2(\text{NCO})_3$). Chlorinated isocyanurates are available in powder, granular and solid (*e.g.*, tablet or stick) forms.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. The tariff classifications 3808.50.4000, 3808.94.5000 and 3808.99.9500 cover disinfectants that include chlorinated isocyanurates. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

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